

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of
Engelhardt et al.
Application No. 08/182,621
Filed: January 13, 1994
Atty Docket No. ENZ-52

OFFICE OF PETITIONS
Ms. Nancy Johnson
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MAIL STOP PETITION
Commissioner for Patents
P.O. Box 1450
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PETITION UNDER 37 C.F.R. 1.182 FOR EXPEDITED
CONSIDERATION OF REQUESTS TO VACATE ORDER TO SHOW CAUSE
AND TO EXPUNGE CONFIDENTIAL INFORMATION FROM PUBLIC
RECORDS

This is a Petition under 37 C.F.R. 1.182 for expedited consideration of the concurrently filed Request to Vacate the Order to Show Cause and Request to Expunge from public records all confidential information.

The Order to Show Cause in the above referenced case set a period for reply of two months, with extensions of time available under the provisions of 37 CFR 1.136(a). If Petitioner's Request to Vacate the Order to Show Cause is ultimately granted, expedited consideration of that request would alleviate any further expenditure of Petitioner's time and resources in preparing responses to any vacated Orders to Show Cause.

As to the Request to Expunge, expedited consideration thereof is requested in order to restore confidentiality and then to maintain in confidence all information concerning confidential applications. The USPTO's improper inclusion of confidential information in the Order to Show Cause by placement of the Order in at least one

patented file is a direct violation of the statute and the regulations. *See* 35 U.S.C. § 122(a) and 37 C.F.R. § 1.14(a). Since the allegations made in the Order question the veracity of the statements made by the applicants, their representatives, and the assignee of this application, and are made without any identification of the source of the alleged “evidence,” there is a compelling need to quickly remove these aspersions from the public eye. The continued identification of confidential applications in the Order continues to violate the confidentiality of those applications. Therefore, prompt removal of all information concerning confidential applications from the public record is paramount.

The regulations specify that questions not specifically addressed elsewhere in the rules may be considered pursuant to the provisions of 37 C.F.R. § 1.182. Since the situation at hand is not addressed elsewhere in the regulations, Petitioner requests that expedited consideration of the above requests be considered with special dispatch.

Therefore, for the reasons stated herein, grant of this 37 C.F.R. § 1.182 Petition for Expedited Consideration is respectfully requested.

Since the inclusion in the Orders to Show Cause of confidential information was a mistake on the part of the USPTO, as was the entire act of issuing the Order to Show Cause, no fee should be required for this Petition to Expedite. Nevertheless, if any fees are deemed necessary for grant of this petition, the USPTO is hereby authorized to charge any required fees to Deposit Account No. 50-2929, making reference to Docket No. J10006.

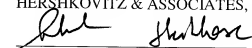
Any questions related to this Petition may be directed to the undersigned.

Respectfully submitted,

HERSHKOVITZ & ASSOCIATES, LLC

Dated: October 21, 2008

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